

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MALLINCKRODT IP UNLIMITED)	
COMPANY, MALLINCKRODT HOSPITAL)	
PRODUCTS INC., and SCR PHARMATOP,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 17-365 (LPS)
)	
B. BRAUN MEDICAL INC.,)	PUBLIC VERSION
)	
Defendant.)	
)	
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MALLINCKRODT IP UNLIMITED)	
COMPANY and MALLINCKRODT)	
HOSPITAL PRODUCTS INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 17-660 (LPS)
)	
B. BRAUN MEDICAL INC.,)	PUBLIC VERSION
)	
Defendant.)	

**PLAINTIFFS' UNOPPOSED MOTION FOR THE ISSUANCE OF LETTERS OF
REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT TO
THE HAGUE CONVENTION ON THE TAKING OF EVIDENCE ABROAD**

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April 19, 2018

Plaintiffs Mallinckrodt IP Unlimited Company, Mallinckrodt Hospital Products Inc. and SCR Pharmatop (“Plaintiffs”) respectfully move this Court to execute and issue the attached Letters of Request for International Judicial Assistance for Spain (Exhibit A) and Germany (Exhibit B) pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Hague Convention”). The attached Letters of Request for International Judicial Assistance are directed to the appropriate authorities in Spain and Germany, and seek to compel limited, relevant discovery from B. Braun Medical S.A. (“Braun Spain”) and B. Braun Melsungen AG (“Braun Germany”), which are incorporated under the laws of Spain and Germany, respectively. In support of this Motion, Plaintiffs state as follows:

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Accordingly, Plaintiffs filed these actions against Braun alleging infringement of Plaintiffs’ U.S. Patent Nos. 9,399,012 (the “’012 Patent”), 9,610,265 (the “’265 Patent”), and 6,992,218 (the “’218 Patent”) (collectively, “the patents-in-suit”).

2. Braun has asserted non-infringement and invalidity of each of the patents-in-suit.

3. Braun Germany is an affiliate of Braun.

4. Braun Spain is an affiliate of Braun, under the same parent, Braun Germany.

5. The ’218 Patent teaches that, absent deoxygenation, acetaminophen solutions become unstable in a matter of days.

6. Braun Germany filed a United States patent application (No. U.S. 2013 / 0178535) describing experiments that demonstrated an ostensibly surprising alternative to

deoxygenation involving the inclusion of hydroxyethylstarch (“HES”) in the liquid acetaminophen formulation. (See Ex. C.)

■ [REDACTED]

[REDACTED]

8. Upon information and belief, Braun Germany currently manufactures and sells a HES-containing acetaminophen formulation in Europe called Paracetamol B. Braun 10 mg/mL.

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. Because Braun Spain and Braun Germany are incorporated under the laws of Spain and Germany, respectively, these documents may only be obtained by petitioning the Court for issuance of a Letter of Request.

13. Plaintiffs request that the Court issue a Letter of Request (in the form attached hereto as Exhibit A) to Subdirección General de Cooperación Jurídica Internacional, Ministerio de Justicia, c/ San Bernardo N° 62, 28071 Madrid, Spain, requesting that Braun Spain be summoned to provide the requested documents, testimony, and inspection as more fully set forth in the attached Letter of Request.

14. Plaintiffs further request that this Court issue a Letter of Request (in the form attached hereto as Exhibit B) to Der Präsident des Oberlandesgerichts, Frankfurt am Main, Zeil 42, Postfach 10 01 01, 60313 Frankfurt am Main, requesting that Braun Germany be summoned to provide the requested documents and testimony, which as more fully set forth in the attached Letter of Request.

15. Plaintiffs further request that, after the Court has signed the Letters of Request, the Clerk of Court authenticate the Court's signature under the seal of this Court, and that the executed and authenticated Letters of Request be returned by the Clerk to counsel for Plaintiffs for delivery to the proper authorities in Spain and Germany.

16. Pursuant to D. Del. LR 7.1.1, Plaintiffs met and conferred with Braun and Braun stated that, while it does not agree with the statements in this motion or the relevance of the discovery being sought, it does not oppose this motion.

WHEREFORE, Plaintiffs respectfully request that the Court grant the Motion for Issuance of a Letter of Request, and execute and issue the attached Letter of Request.

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April 19, 2018
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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2018, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on April 19, 2018, upon the following in the manner indicated:

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